

## REMARKS

### Introduction

Claim 40 is cancelled herewith without prejudice. Claims 33, 43, 51, and 55 have been amended herewith to more particularly define Applicants' invention. Support for the amendment is found in current Claim 40 and on page 9 of the instant application.

### 35 U.S.C. § 112 Rejections

Claims 53, 54, 57, and 58 are rejected under 35 U.S.C. §112 for the reasons of record stated on page 2 of the Office Action. The Office Action indicates that each of these claims recite a product comprising "instructions for using" which is unclear as these claims are dependent upon an apparatus claim. Applicants have amended Claims 53, 54, 57, and 58 to more particularly define the invention. Support for this amendment is found in Claims 53, 54, 57, and 58 as originally filed and on pages 7 - 8 of the instant application.

### 35 U.S.C. § 102 Rejections and 35 U.S.C. §103(a) Rejections

Claims 59 - 60 are rejected under 35 U.S.C. §102(b) over FR 1,102,562 (hereinafter "FR '562") for the reasons of record stated at pages 2 and 3 of the Office Action. Applicants respectfully traverse this rejection. Claims 59 - 60 of Applicants' invention provide *inter alia* that the housing of the ultrasonic cleaning device includes a retaining means for removably retaining tableware. FR '562 teaches an electrical appliance usable for cleaning kitchen utensils and dishes. It does not teach or suggest either in the written specification or the drawings a retaining means included with the housing of the electrical appliance. In fact, page 2, paragraph 5 of the English translation for FR '562 that utensils and dishes are separated from the vibrating element. More specifically, FR '562 provides that the sink is divided into two parts by a lattice partition. A vibrating piston connected with an electromagnetic motor is located in one of the two parts while the kitchen utensils and dishes are placed in the other part of the sink in a basket.

Hence, Claims 59 - 60 of the present invention are neither anticipated by nor obvious in view of FR '562. Applicants respectfully request that the rejection of Claims 59 - 60 be reconsidered and withdrawn.

Claims 33 - 35, 39, and 40 are rejected under 35 U.S.C. §102 (b) or alternatively §103(a) as obvious over U.S. 5,297,512 issued to Sharp (hereinafter "Sharp") for the reasons of record stated at pages 4 and 5 of the Office Action. Applicants respectfully traverse this rejection as it applies to Claims 33 - 35 and 39. The rejection is now moot as it applies to Claim 40 as this claim has been cancelled herewith without prejudice. Page 4 of the Office Action asserts that Fig. 1 of Sharp indicates a finger defining a scale for the size of the device indicating that the area is greater than 6.25 cm<sup>2</sup>. Applicants disagree with this assertion. To establish a prima facie case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference. Second, there must be a reasonable expectation of success. Third, the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior

art and not based on applicant's disclosure. MPEP 2142 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 33 of the instant application and all claims dependent therefrom require that the minimum surface area of the cleaning head is greater than about 6.25 cm<sup>2</sup>. Fig. 1 of Sharp shows a finger touching the housing of the apparatus. However, Sharp does not teach or suggest the specific limit of a minimum cleaning head surface area of greater than about 6.25 cm<sup>2</sup>.

Furthermore, Sharp does not teach or suggest a cleaning head adapted to be removably mounted to the housing. The Office Action on page 4 asserts that Figure 1 of Sharp indicates a "cleaning head that is adapted to be removably mounted to the housing". Applicants disagree with this assertion. Column 2, lines 35 - 40 of Sharp indicates that "*the housing has been shown in a position removed from the hairbrush portion...*". There is no teaching or suggestion that Sharp has a cleaning head that is adapted to be removable from the housing.

Hence, as a prima facie case of obviousness has not been met, Claims 33 - 35 and 39 - 40 of the instant application are not obvious over Sharp. Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claims 33 - 35, 39, 42 - 44, 47, 49, 51, and 55 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 5,311,632 issued to Center (hereinafter "Center") for the reasons of record stated at pages 5 - 6 of the Office Action. Applicants respectfully traverse this rejection. Center relates to a toothbrush for cleaning teeth. [See column 1, lines 5 - 10 of Center]. Center does not teach or suggest either expressly or inherently a cleaning head which rests on a surface greater than about 6.25 cm<sup>2</sup>. Furthermore, Claims 33 - 35, 39, 42 - 44, 47, 49, 51, and 55 of the instant application would be unobvious in view of Center as cleaning teeth would require a cleaning head for resting on a surface smaller than 6.25 cm<sup>2</sup> in order to fit into the mouth. Hence, Center teaches away from the present invention. Furthermore, Center does not teach or suggest a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, as Claims 33 - 35, 39, 42 - 44, 47, 49, 51, and 55 are unobvious over Center, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Claims 33 - 36, 38 - 39, 41 - 51, and 55 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 3,357,033 issued to Sawyer (hereinafter "Sawyer") for the reasons of record stated at pages 6 - 7 of the Office Action. Applicants respectfully traverse this rejection. Sawyer relates to a cleaning tool which utilizes a source of sonic energy in the lower sonic range. [See column 1, lines 10 - 15 and lines 50 - 55 of Sawyer]. The cleaning tool taught by Sawyer does not utilize ultrasonic energy. Furthermore, the cleaning tool of Sawyer does not teach or suggest an ultrasonic cleaning device having *inter alia* a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, Claims 33 - 36, 38 - 39, 41 - 51, and 55 are not obvious in view of Sawyer. Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claims 33 - 37, 39, 42 - 49, 51, 52, and 55 - 56 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 5,890,249 issued to Hoffman (hereinafter "Hoffman") in view of Center for the reasons of record stated at pages 8 - 9 of the Office Action. Applicants respectfully traverse this rejection. Hoffman does not teach or suggest *inter alia* an ultrasonic cleaning device. Furthermore,

neither Hoffman nor Center nor Hoffman in view of Center teach or suggest *inter alia* a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, as Claims 33 - 37, 39, 42 - 49, 51, 52, and 55 - 56 of the instant invention are unobvious over Hoffman in view of Center, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Claims 33 - 35, 39, and 42 - 45 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 5,369,831 issued to Bock (hereinafter "Bock '831") for the reasons of record stated at pages 9 - 10 of the Office Action. Applicants respectfully traverse this rejection. Bock '831 teaches an ultrasonic toothbrush for removing plaque and tartar from teeth. Bock '831 does not teach or suggest either expressly or inherently a cleaning head which rests on a surface greater than about 6.25 cm<sup>2</sup>. Claims 33 - 35, 39, and 42 - 45 of the instant application would be unobvious in view of Bock '831 as cleaning teeth would require a cleaning head for resting on a surface smaller than 6.25 cm<sup>2</sup> in order to fit into the mouth. Hence, Bock '831 teaches away from the present invention. Furthermore, Bock '831 does not teach or suggest a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, as Claims 33 - 35, 39, and 42 - 45 are unobvious over Bock '831, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Claims 33 - 35, 39, and 42 - 45 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 5,546,624 issued to Bock (hereinafter "Bock '624") for the reasons of record stated at pages 10 - 11 of the Office Action. Applicants respectfully traverse this rejection. Bock '624 teaches an ultrasonic toothbrush for removing plaque and tartar from teeth. Bock '624 does not teach or suggest either expressly or inherently a cleaning head which rests on a surface greater than about 6.25 cm<sup>2</sup>. Claims 33 - 35, 39, and 42 - 45 of the instant application would be unobvious in view of Bock '624 as cleaning teeth would require a cleaning head for resting on a surface smaller than 6.25 cm<sup>2</sup> in order to fit into the mouth. Hence, Bock '624 teaches away from the present invention. Furthermore, Bock '624 does not teach or suggest a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, as Claims 33 - 35, 39, and 42 - 45 are unobvious over Bock '624, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Claims 53 - 54, and 57 - 58 are rejected under 35 U.S.C. §103(a) as obvious over U.S. 5,311,632 issued to Center for the reasons of record stated at page 11 of the Office Action. Applicants respectfully traverse this rejection. As previously discussed, Center relates to a toothbrush for cleaning teeth. Center does not include or suggest instructions for using. Furthermore as previously discussed above, Center does not teach or suggest either expressly or inherently a cleaning head which rests on a surface greater than about 6.25 cm<sup>2</sup>. Yet further, Claims 53 - 54 and 57 - 58 of the instant application would be unobvious in view of Center as cleaning teeth would require a cleaning head for resting on a surface smaller than 6.25 cm<sup>2</sup> in order to fit into the mouth. Hence, Center teaches away from the present invention. Additionally, Center does not teach or suggest a transducer means having an average oscillating frequency of from about 1000 Hz to about 100 KHz. Hence, as a prima facie case of obviousness has not been met, Claims

53 - 54 and 57 -58 are unobvious over Center. Applicants respect request reconsideration and withdrawal of the rejection.

**SUMMARY**

This is responsive to the Office Action dated February 5, 2004. As the rejections have been overcome, it is believed that the claims are in condition for allowance. Applicants respectfully request the rejections be reconsidered and withdrawn and the claims allowed.

Respectfully submitted,  
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